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SUBJECT: FOREIGN LABOR TRENDS REPORT: INDIA, 2004

The following is the text of the National Foreign Labor Trends Report for India, 2004, prepared as requested by DOL.

## I. SUMMARY OF MAJOR DEVELOPMENTS

### A. Government

The Government is a federal republic made up of three branches at the federal level: (1) the Executive Branch, consisting of the President (Chief of State), the Prime Minister (Head of Government), and the Council of Ministers (Cabinet); (2) the Legislative Branch, which has a bicameral Parliament, consisting of a lower house (Lok Sabha) with 545 members and an upper house (Rajya Sabha) with no more than 250 members; and (3) the Judicial Branch, which is independent. At the state level, each of India's 28 states and 7 union territories has its own state assembly, council of ministers, and court system.

During 2004, India held national parliamentary elections that resulted in a change of government. The National Democratic Alliance (NDA) coalition government led by the Bharatiya Janata Party (BJP) under Prime Minister Atal Bihari held power at the beginning of the year, but lost in the April-May elections. A United Progressive Alliance (UPA) government led by the Congress party under Prime Minister Manmohan Singh took office in May. The BJP is now the main opposition party, with 138 seats. A broad range of regional and communist parties does not belong formally to the UPA but supports the UPA government from the outside. The UPA depends on the cooperation of these outside parties to maintain its control of Parliament, a situation that has sometimes produced tension between Congress and its allies, particularly over economic and labor policies.

### B. Economy

India's economy encompasses traditional village farming, modern agriculture, handicrafts, a wide range of modern industries, and a multitude of support services. The agricultural sector employs the largest percentage of the workforce (approx. 60 percent), although it represents only 22.7 percent of GDP. Major crops include wheat, rice, coarse grains, oilseeds, cotton, jute, and tea. The industrial sector employs 17 percent of the workforce and represents 26.7 percent of GDP. Major industrial products include textiles, processed food, steel, machinery, transportation equipment, cement, aluminum, fertilizers, mining, petroleum, chemicals, and computer software. The services industry employs 23 percent of the workforce and represents 50.7 percent of GDP. India is capitalizing on its large numbers of well-educated people skilled in the English language to become a major exporter of software services and software workers.

During 2004, the growth rate was 6.6 percent, with an inflation rate of 6 to 7 percent. The impressive growth rate is largely attributable to increased agricultural production, robust merchandise exports, a booming stock market, and the steady pace of reforms. The Government would like to increase the growth rate, but most economists believe it will not be possible without further structural reforms. Wages and benefits kept pace with inflation. The local currency (rupee) appreciated slightly against the dollar in 2004. The U.S. accrued a trade deficit of nearly 9.5 billion dollars with India during 2004, an increase from 8.1 billion dollars in 2003. Exports of goods to the U.S. were approximately 6.1 billion dollars.

India continued its transition from a government-controlled economy to a largely market-oriented system. The private sector was predominant in agriculture, most non-financial services, consumer goods manufacturing, and some heavy industrial sectors. A 1.7 percent annual population growth rate and a population that surpassed 1.06 billion contributed to the country's economic challenges, but also constitute a rich base of human capital.

### C. Workforce

According to the 2001 census figures, there are approximately 403 million workers in the Indian economy, of which 311 million (77 percent) are in rural settings and 92 million (23 percent) are in urban settings. The bulk of the Indian workforce (approximately 60 percent) is in the agricultural sector. Projections put the labor force for the year 2004 at approximately 482 million workers.

Seven percent of the work force is in the formal, organized sector. Growth in this sector remained sluggish. Employer organizations attribute this to the presence of labor laws that restrict downsizing. To circumvent such laws, private sector companies continued hiring workers on a contract basis. The informal sector, where the workforce generally does not enjoy legal protection, witnessed more growth. Official statistics put the unemployment rate at 9.2 percent, but unofficial estimates suggest it could be as high as 20 percent.

#### HIV/AIDS in the Workplace

According to the National AIDS Control Organization (NACO), a government agency under the Ministry of Health and Family Welfare, nearly 90 percent of the 5.13 million Indians currently estimated to be infected with HIV/AIDS are in the 15-49 age group, the prime of their working years. HIV/AIDS has a negative impact on individual workers and their families as well as on the economy as a whole. NACO and the ILO, in conjunction with industrial workers, and employers, organizations, are collaborating to respond to the problem of HIV/AIDS in the workplace, using the ILO Code of Practice on HIV/AIDS as a guideline. The code includes the following: recognition of HIV/AIDS as a workplace issue, non-discrimination, gender equality, social dialogue, no screening of HIV/AIDS at the workplace, confidentiality, continuing the employment relationship, prevention, and care and support.

The Steel Authority of India, the Employees State Insurance Scheme, and Indian Railways are among the organizations and associations that NACO has worked with to implement HIV/AIDS programs in the workplace. In addition, the Confederation of Indian Industries (CII) founded an Indian business trust to combat HIV/AIDS in the workplace and has begun programs in its 22 branches across India. The Lawyers' Collective, an NGO, has successfully defended workers who lost their jobs due to their HIV/AIDS status.

## II. DESCRIPTION OF THE LABOR SCENE

### A. Government

The central and state governments share jurisdiction over labor issues. Both may enact legislation concerning the following: trade unions, industrial and labor disputes; social security, insurance, employment, and unemployment; and welfare of labor including conditions of work, provident funds, pensions, and maternity benefits. Only the central government may enact legislation concerning regulation of safety in mines and oil fields, industrial disputes concerning central government employees, and central government agencies and institutions for vocational training.

The Ministry of Labor, a Cabinet-level ministry, is the lead central governmental agency on labor issues. The Ministry is headquartered in New Delhi and has subsidiary offices located throughout the country. The Main Secretariat of the Ministry consists of eight divisions: social security, emigration, industrial relations, child and women labor, labor welfare, economics and statistics, international labor affairs, and labor conference. Each state government also has a labor ministry that may implement legislation of labor laws within its jurisdiction.

The Labor Bureau, created in 1946 as part of the Ministry of Labor, is responsible for the collation, collection, and publication of statistics and related information on wages, earnings, productivity, absenteeism, labor turn-over, industrial relations, and working and living conditions. It also tracks important economic indicators like the Consumer Price Index, data concerning industrial, agricultural and rural laborers; wage rate indices; and data on industrial relations and socio-economic conditions in the organized and unorganized sectors of industry.

In April 2000, USDOL signed a Memorandum of Understanding with the Indian Ministry of Labor to provide technical assistance in five areas: the elimination of child labor, prevention of HIV/AIDS in the workplace, improvement in mines safety, provision of decent employment for women, and labor market information systems. A subsequent agreement between the two governments resulted in the INDUS project, a joint U.S.-India partnership to eliminate hazardous and exploitative child labor, towards which each government has contributed 20 million dollars. The project is focused on removing children from ten specific industries in India: bidi cigarettes, brassware, bricks, fireworks, footwear, bangles, locks, matches, quarried stones and silk. Thus far, the joint project has enrolled more than 44,000 child laborers and at-risk youths in education and training programs. The only area of the MoU without a technical assistance program is labor market information systems. This was originally due to US sanctions after India's 1998 nuclear tests, but now reflects a lack of resources.

### B. Employers

The Council of Indian Employers (CIE) is a confederation of three smaller employer organizations: the All India Organisation of Employers (AIOE), the Employers, Federation of India (EFI), and the Standing Conference of Public Enterprises (SCOPE). The CIE is not registered under any Act of the Government, but AIOE, EFI, and SCOPE are all registered as individual organizations. Total membership in AIOE and EFI consists of 80 regional associations of employers or chambers of commerce and 322 public and private companies. SCOPE covers 240 public sector undertakings (PSUs).

The CIE's primary objective is to interact with the GOI in formulating labor, economic, and social welfare policies that concern workers and employers. It also aims for increased cooperation between employers, and workers, organizations and holds regular meetings with the trade union centrals to accomplish this. The CIE is represented on almost all Government Advisory Boards, is affiliated with the International Organization of Employers, and represents India at the ILO.

#### C. Trade Unions

According to the latest census taken in 2001, approximately 403 million persons constitute India's active work force. Approximately 28 million of these workers are employed in the formal, or organized, sector. The rest are overwhelmingly agricultural workers, and to a lesser extent, urban non-industrial workers. While some trade unions represent agricultural and informal sector workers, the majority of India's estimated 13-15 million union members are part of the formal sector.

Of these 13 to 15 million unionized workers, some 80 percent are members of unions affiliated with 1 of the 5 major trade union centrals. These include the Bharatiya Mazdoor Sangh, Indian National Trade Union Congress, Center of Indian Trade Unions, Hind Mazdoor Sabha, and the All India Trade Union Congress. By U.S. standards, all of these major trade union centrals are &politicized, i.e., they are either directly linked or ideologically associated with a political party. However, since many Indians now view party identification as detrimental to trade union interests, all centrals stress their independence and in some cases are attempting to reduce or sever previously tight party control.

Total membership in unions affiliated with the national centers has remained essentially static in the face of an annual growth in the work force of 7-8 million. Union members account for approximately two percent of the overall work force. Unions remain concentrated in the public sector, and labor leaders have not made serious efforts to organize workers in the new Indian and foreign companies in the private sector. Although a few significant examples exist, independent unions are not a major factor.

All five major trade union centrals participate in ILO activities. In addition, local unions participate in ILO programs such as Organizing in the Informal Sector, Campaigns on Eradication of Child Labor, Tripartite Response on Discrimination at Workplace on HIV, and Promotion of the Core Labor Standards in Enterprise.

#### III. Programs Providing Workers with a Social Safety Net

India lacks a comprehensive social security system. In the informal sector, which employs the vast majority (93 percent) of Indian workers, there is no social security protection for unemployed or retired workers.

The Employees, State Insurance Corporation (ESIC) provides social protection to workers (and their dependents) in the organized sector in case of sickness, maternity, and death or disablement due to an employment injury or occupational hazard. In most states, employees in the following classes of establishments are eligible for coverage: non-seasonal factories using power and employing 10 or more persons; non-seasonal and non-power using factories, shops, hotels, restaurants, cinemas, preview theatres, motor transport undertakings and newspaper establishments employing 20 or more persons.

Employees covered under the scheme are entitled to medical facilities for themselves and their dependents, as well as cash benefits in the event of specified contingencies resulting in loss of wages or earning capacity. Insured women are entitled to maternity benefits to cover the period of confinement. When an employment injury causes the death of an insured employee, the dependents are entitled to a family pension.

The ESI Scheme is financed by contributions from covered employees and their employers. The State Governments bear one-eighth of the share of expenditure on medical benefits within the per capita ceiling of Rs.600 (\$14) per year and all additional costs beyond the ceiling. Employee

contributions are tied to a fixed percentage of the workers wages, but benefits are provided according to individual needs regardless of employee contributions.

#### IV. Major Labor Laws

India is a founding member of the International Labor Organization and has ratified 39 total ILO Conventions. Of the eight core ILO Conventions, India has ratified four: the Conventions on Forced Labor (No. 29), Equal Remuneration (No. 100), Abolition of Forced Labor (No. 105), and Discrimination (Employment and Occupation) (No. 111). India has not ratified the remaining four core conventions on Freedom of Association and Protection of the Right to Organize (No. 87), Right to Organize and Collective Bargaining (No. 98), Minimum Age Convention (No. 138), and Worst Forms of Child Labor (No. 182).

##### A. Industrial Disputes Act

The Industrial Disputes Act (1947) regulates reductions in force (RIF) and plant closures. It requires state approval 90 days before large firms (more than 100 employees) lay off employees. Likewise, no plant employing more than 100 employees can shut down without obtaining approval 90 days before the closure date. Laws also prohibit firms from employing contract laborers for extended periods of time without extending permanent employment.

##### B. Factories Act

The Factories Act (1948) mandates a maximum 9-hour workday and 48-hour workweek, as well as minimum working conditions. Workers are to be paid twice their regular wage rate for working overtime. State government laws set minimum wages, hours of work, and safety and health standards. These standards were generally enforced and accepted in the modern industrial sector; but were not observed in less economically stable industries. However, the large number of industries covered by a small number of factory inspectors and the inspectors' limited training and prevalence of bribery resulted in lax enforcement.

Minimum wages varied according to the state and sector of industry. Such wages were inadequate to provide a decent standard of living for a worker and his/her family. Most workers employed in units subject to the Factories Act received more than the minimum wage, including mandated bonuses and other benefits. The state governments set a separate minimum wage for agricultural workers but did not enforce it effectively. Some industries, such as the apparel and footwear, did not have a prescribed minimum wage in any of the states in which they operated.

##### C. The Right to Association

The Constitution provides for the right of association, and the Government generally respected this right in practice. Workers may establish and join unions of their own choosing without prior authorization. In practice, legal protections of worker rights were effective only for the organized industrial sector. Outside the modern industrial sector, laws were difficult to enforce. The authorities generally prosecuted and punished those persons responsible for intimidation or suppression of legitimate trade union activities when the victims were members of nationally organized unions. Unaffiliated unions were not able, in all instances, to secure for themselves the protections and rights provided by law. Union membership was rare in the informal sector.

The Trade Union Act prohibits discrimination against union members and organizers, and employers were penalized if they discriminated against employees engaged in union activities.

##### D. The Right to Organize and Bargain Collectively

The law provides for the right to organize and bargain collectively. Collective bargaining is the normal method used to set wages and settle disputes in unionized plants in the organized industrial sector. Trade unions vigorously defended workers' interests in this process. Although a system of specialized labor courts adjudicates labor disputes, there were long delays and a backlog of unresolved cases. When the parties are unable to agree on equitable wages, the Government may establish boards of union, management, and government representatives to determine wages. The legislation makes a clear distinction between civil servants and other workers. Public service employees have very limited organizing and collective bargaining rights.

Trade unions often exercised the right to strike, but public sector unions were required to give at least 14 days' notice prior to striking. Some states have laws requiring workers in certain nonpublic sector industries to give notice of a

planned strike.

The Essential Services Maintenance Act allows the Government to ban strikes in government-owned enterprises and requires conciliation or arbitration in specified essential industries; however, essential services never have been defined in law. Legal mechanisms exist for challenging the assertion that a given dispute falls within the scope of this act. The act thus is subject to varying interpretations from state to state. State and local authorities occasionally use their power to declare strikes illegal and force adjudication. The Industrial Disputes Act prohibits retribution by employers against employees involved in legal strike actions, and this prohibition was observed in practice.

The Kerala High Court declared in 2002 that all general strikes were illegal and that all protest organizers would be liable for losses caused by shutdowns. The Supreme Court upheld the verdict, drawing attention to the difference between a complete closedown of all activities and a general strike. While it is likely that the ruling was aimed at limiting general strikes with purely political motives, unions stated that it remained a potential threat to their activities. Other court rulings also declared such strikes illegal and made striking workers pay damages to consumers and the public who suffered due to the strikes. In August 2003, the Supreme Court declared all strikes by government employees illegal; however, in practice this was not enforced.

#### E.Prohibition of Forced or Compulsory Labor

The Constitution prohibits forced or bonded labor, including by children; however, such practices continued to be prevalent in India and were found primarily among the agricultural and rural unorganized workforce. The Bonded Labor System (Abolition) Act prohibits all bonded labor by adults and children. Offenders may be sentenced up to three years in prison, but prosecutions were rare. Enforcement of this statute, which was the responsibility of state and local governments, varied from state to state and often was not effective due to inadequate resources and to societal acceptance of bonded or forced labor. On the occasions when inspectors referred violations for prosecution, long court backlogs and inadequate funding for legal counsel frequently resulted in acquittals.

The GOI does not publish official statistics on bonded labor, but it claims to have identified and rescued about 285,000 bonded laborers, and rehabilitated approximately 265,000, since the advent of the Bonded Labor System (Abolition) Act of 1976. Many NGOs, however, claim that these numbers do not reflect the actual magnitude of the problem. They estimate that there were 20 to 65 million bonded laborers in the country, including a large number of children. According to a Government report, more than 85 percent of bonded laborers belonged to scheduled castes and scheduled tribes. In 2002, the Tamil Nadu state government began planning and implementing rehabilitation programs after press reports indicated that the presence of 25,800 bonded laborers in the state, while government officials worked to release bonded laborers in many other states. Despite these efforts, NGOs believe that the GOI's actions have not effectively resolved the problem of forced/bonded labor.

#### F.Status of Child Labor Practices and Minimum Age for Employment

The Government prohibits forced and bonded child labor; however, this prohibition was not effectively enforced, and forced child labor continued to be a problem. The law prohibits the exploitation of children in the workplace. However, National Human Rights Commission (NHRC) officials have admitted that implementation of existing child labor laws was inadequate, that administrators were not vigilant, that children were particularly vulnerable to exploitation, and that the Commission was focusing on the adequacy of existing legislation. There is no overall minimum age for employment. However, work by children under 14 years of age was barred completely in "hazardous industries," which included passenger goods and mail transport by railway, and in factories. The NDA government resolved to end child labor in hazardous industries by the year 2007, and the UPA government is working towards that goal. In occupations and processes in which child labor is permitted, work by children was permissible only for 6 hours between 8 a.m. and 7 p.m., with 1 day's rest weekly and two hours of education provided by the employer. There was reasonable basis to believe that child labor was used to produce hand-knotted carpets, gemstone polishing, leather goods, sporting goods, and many hand-made products. Children are also used as domestic help throughout the country.

Estimates of the number of child laborers varied widely. The

provisional results of the Government census of 2001 put the number of child workers at 12.5 million. However, the ILO estimated the number at 44 million and Global March Against Child Labor, an NGO, claims there are 60 million. The government does not provide free, compulsory, and universal primary education, and most, if not all, children who did not attend school did housework, worked on family farms, worked alongside their parents as paid agricultural laborers, or worked as domestic servants. Though the Government's statistics from 2003 claim that 165 million of the 200 million children between the ages 6-14 attend school, UNICEF reported that approximately 120 million of the primary school-age population of approximately 203 million attended school.

The enforcement of child labor laws was the responsibility of the state governments; however, enforcement was inadequate and uneven among states, especially in the informal sector in which most children were employed. The continuing prevalence of child labor was attributable to social acceptance of the practice, to the failure of the state and federal governments to make primary school education compulsory, ineffective state and federal government enforcement of existing laws, and economic hardships faced by families. In addition, over-worked and ill-trained local magistrates are charged with the competing mandate of collecting state taxes from the businesses that employ child or bonded laborers.

Government efforts to eliminate child labor affected only a small fraction of children in the workplace. The Government assisted working children through the National Child Labor Project, which was established in more than 3,700 schools. In January 2004, the GOI increased the number of its National Child Labor Projects from 50 to 100, and intends to add another 100 by March 2005. The Indus project -- jointly funded by the U.S. Department of Labor and the GOI and implemented by the ILO -- was launched in February 2004. It hopes to remove 80,000 children from hazardous work situations in 20 districts of the country over a three-year period.

The Government also cooperated with UNICEF, the United Nations Educational, Scientific and Cultural Organization (UNESCO), the United Nations Development Programme (UNDP), and the ILO in their efforts to eliminate child labor. The Government participated in the ILO's International Program on the Elimination of Child Labor (IPEC). Approximately 145,000 children have been removed from work and received education and stipends through IPEC programs since they began in the country in 1992. The NHRC, continuing its own child labor agenda, organized NGO programs to provide special schooling, rehabilitation, and family income supplements for children in the glass industry in Firozabad. In addition, employers in some industries took steps to combat child labor.

A 1986 Supreme Court decision increased penalties for employers of children in hazardous industries to \$430 (Rs 20,000) per child employed, and established a welfare fund for formerly employed children funded by using the employers' fines. In addition, the decision requires the Government to find employment for an adult member of the child's family or pay it \$108 (Rs 5,000). According to the South Asian Coalition on Child Servitude, the authorities were pursuing some 6,000 cases against employers.

#### G.Occupational Health and Safety Standards

Occupational Safety and Health (OSH) remains a problem area in India. Extensive legislation covering various aspects of OSH notwithstanding, industrial accidents continued to occur frequently due to lack of proper enforcement. The chemical sector is the most prone to accidents. The lack of awareness regarding occupational health has resulted in many deaths throughout the country. OSH in the state-controlled mining industries is of significant concern. The USDOL has funded an approximately 1.5 million-dollar project to improve safety standards in selected public sector mines and to provide training to mine inspectors. The project improved working conditions in five selected pilot mines and drastically reduced accident rates. In addition, the project helped the Indian Directorate General of Mines Safety establish for the first time a computerized mine inspection system that significantly reduced the time needed by mine inspectors to inspect a mine.

Industrial accidents continued to occur frequently due to improper enforcement of existing laws. Chemical industries were the most prone to accidents. According to the Director General of Mines' safety rules, mining companies must seal the entrances to abandoned underground mines, and bulldoze and reforest opencast mines. However, these rules seldom were obeyed. In June, flooding of a mine killed 17 miners in Andhra Pradesh. Safety conditions generally tended to be better in the SEZs than in the manufacturing sector.

The law does not provide workers the right to remove

themselves from work situations that endanger health and safety without jeopardizing their continued employment. Legal foreign workers were protected under these laws; however, illegal foreign workers had no protection.

#### H. Discrimination in Employment

India has ratified ILO Conventions on Equal Remuneration (No. 100) and Discrimination (Employment and Occupation) (No. 111). The Constitution prohibits discrimination on the basis of a person's race, sex, religion, place of birth, or social status. During 2004, government authorities worked to enforce these provisions with varying degrees of success. Despite laws designed to prevent discrimination, social and cultural practices as well as other legislation had a profound discriminatory impact, and discrimination against women, persons with disabilities, indigenous people, homosexuals, and national, racial, and ethnic minorities was a problem. The traditional caste system, as well as differences of ethnicity, religion, and language, deeply divided the society.

##### 1. Women

The participation of women in the formal labor force is much less than that of males (33 percent vs. 67 percent). The promotion of women to managerial positions within businesses often was slower than that of males. The Equal Remuneration Act of 1976 mandates that men and women performing the same job receive the same payment; however, enforcement was often weak, especially in rural areas where traditions encouraging discrimination against females were deeply rooted. In both rural and urban areas, women were paid less than men were for the same job. Women experienced economic discrimination in access to employment and credit, which acted as an impediment to women owning businesses. In a positive development, state-supported microcredit programs for women began to have an impact in many rural districts. Sexual harassment was common, with a vast majority of cases unreported to authorities. In June 2004, the National Commission for Women (NCW) and the Press Institute of India jointly released a report that found that a majority of women experienced gender discrimination at their workplaces. Often, attempts by women to report harassment resulted in further problems or dismissal. On April 27, 2004, the Supreme Court determined that a victim of sexual harassment could be awarded compensation based on the findings of an internal departmental report or investigation of the case.

##### 2. Dalits, Scheduled Castes, and Scheduled Tribes

The Constitution and the 1955 Civil Rights Act outlaws the practice of untouchability, which discriminates against Dalits (formerly called "untouchables") and other people defined as Scheduled Castes. According to the 2001 census, scheduled castes, including Dalits, made up 16 percent (166.6 million) of the population, and scheduled tribes (members of indigenous groups outside the caste system) were 8 percent (84.3 million) of the country's population. Despite longstanding efforts by the Government to eliminate the discriminatory aspects of caste, discrimination based on the caste system occurred throughout the country during the reporting period.

The GOI uses a system of "reservations," similar to affirmative action programs in the US, in an attempt to decrease employment-based discrimination towards these scheduled castes and scheduled tribes. The Anti-Untouchability Act of 1955 and the Prevention of Atrocities Act of 1989 give further protection; however, Dalits are often relegated to the most menial of jobs. Employment discrimination against Dalits is widespread in rural areas; many rural Dalits worked as agricultural laborers for caste landowners without remuneration. The majority of bonded laborers were Dalits. Those who attempt to change the status quo regularly faced violence. Low caste Hindus who converted to Christianity lost their eligibility for affirmative action programs. Some states reserved government jobs for Muslims of low caste descent.

##### 3. Persons with Disabilities

Although the Persons with Disabilities Act provides equal rights to all persons with disabilities, advocacy organizations admitted that its practical effects have so far been minimal, in part due to a clause that makes the implementation of programs dependent on the "economic capacity" of the Government. Widespread discrimination occurred against persons with physical and mental disabilities in employment, education, and in access to health care.

#### I. Special Economic Zones

In 2000, the GOI converted India's seven government controlled Export Processing Zones to Special Economic Zones (SEZs), and the private sector set up an eighth SEZ. All SEZs must follow labor laws. While SEZ workers enjoy freedom of association and collective bargaining, trade union activity in the zones has been negligible. Entry into the

SEZs ordinarily is limited to employees, and union organizers claim that such restrictions make it difficult for them to organize workers. In addition, unions have not vigorously pursued efforts to organize private-sector employees since SEZs were established in 2000. Women constituted the majority of the work force in the SEZs. The International Confederation of Free Trade Unions reported that industries in the SEZs compelled their workers to work overtime, often employed them on temporary contracts with fictitious contractors, and threatened those that complained about substandard working conditions.

In August 2003, the Government of Madhya Pradesh enacted a law to allow companies in the Indore SEZ to hire and fire workers and to close down units without prior government permission. In November 2003, the Government of Maharashtra passed a similar act, exempting SEZs from labor laws applicable in the rest of the state. This act also prohibits more than one union from representing workers in a single unit to prevent inter-union rivalry.

#### J.Labor Law Reforms

Many observers believe that India's labor laws are antiquated and in need of reform. The second National Labor Commission (NLC), established by the GOI in September 1999, submitted its report in June 2002. It recommended reviews of Indian labor laws and the social security system and the strengthening of governmental programs to eradicate child labor. Although the NLC recommendations are not binding on the government, the Ministry of Labor has begun consulting various social partners on their possible implementation. Unlike the previous NDA government, the UPA has not made labor law reform a top priority. Considering the lack of consensus within and outside the government to reform, most observers do not expect large-scale changes to existing labor legislation.

#### IV. Industrial Relations

##### A.Sectoral Issues

Airlines: Labor-management relations were calm in the government-owned airlines, with pilots in both government-run carriers -- Air India (international) and Indian Airlines (domestic) -- receiving pay and benefit increases. The GOI initially planned to offer low equity participation to private partners, with restrictions on foreign investment, which would have deterred private partners from bidding for the national carriers. Now, the GOI has changed its policy and is no longer planning to sell equity in the airlines.

Financial services: The banking and insurance sectors are highly unionized and predominantly state-owned. During the reporting year, workers in the banking sector held three one-day strikes to demand better working conditions. Bank employees in the public sector banks successfully negotiated a 13 per cent wage increase with retroactive implementation to November 2002. Insurance sector workers held two one-day strikes to support other unions protesting government economic policies.

##### B.Regional Reviews

Northern Region: Industrial and employment growth in the northern region was sluggish, due primarily to the absence of reforms in the agricultural sector. Infrastructure shortfalls and concerns regarding effective governance has kept investment low in the region, particularly in Uttar Pradesh, India's most populous state. There was no significant labor unrest in the region during the reporting year. The Delhi state government relaxed working conditions for women in the IT sector by permitting them to work in night shifts. Punjab and Haryana subsequently adopted the same measure.

In February 2004, the then federal labor minister announced that Delhi would become a child labor free state by December 12005. Most observers believe this target will not be achieved.

Eastern Region: Industrial relations in the 12 states of Eastern India remained more or less peaceful, barring a few incidents of lockouts and violence in the tea gardens of West Bengal and Assam. A strike planned by the Assam Cha Mazdoor Sangh (Assam Tea Workers, Union) in July was cancelled after the state government assured the organization of a tripartite settlement. Workers in 18 tea gardens belonging to the state-owned Assam Tea Corporation have not received wages for the past year. The West Bengal State government averted a strike by West Bengal jute mill workers in November by brokering a tripartite wage agreement.

West Bengal industries minister Nirupam Sen indicated that there has been a net reduction of 200,000 organized sector jobs in West Bengal over the past five years. The Orissa Government is working on a voluntary retirement scheme (VRS)



for its ailing public sector units. Other state governments in the region have not initiated labor reform measures. Barring Assam, where there is public sector investment in the oil sector, state governments continue to be the biggest employers throughout the northeast region. During the period under review, the Government of West Bengal continued its on-going process of selling government-owned assets by privatizing 16 ailing public sector units and offering the workers a VRS underwritten by the British overseas development-funding agency DFID.

The West Bengal State Government estimated that children made up 3.1 percent of the state's total workforce, with about 11 percent or 1.2 million of the children in the 5-14 age group, and with the help of UNICEF, developed an Action Plan to address the problem. In West Bengal and elsewhere in the region, children continue to be employed in brick making, bidi (tobacco) binding, and agricultural labor. In the urban areas, they were employed as domestic workers, in shops and offices, in the large informal service sector (tea stalls, wayside restaurants and kiosks), or in hazardous jobs such as scavenging and rag picking. The USG is giving financial support to leading NGOs such as CINI (Child-in-Need Institute), Asha, and Tiljala Shed to provide these children with preparatory coaching and enroll child laborers and potential child laborers in school. All states in the region have strict laws banning the use of child labor, but enforcement remains poor.

The Center of Indian Trade Unions (CITU) -- the trade union wing of the Communist Party of India (Marxist) -- has been subdued in recent years, as West Bengal Chief Minister Buddhadeb Bhattacharjee has discouraged aggressive unionism to create an industry-friendly atmosphere. Although CITU membership has increased in West Bengal, CITU noted a 10 percent decline in its Calcutta membership.

**Southern Region:** South Indian states experienced a generally peaceful labor situation during the reporting period, with no major prolonged strikes in any sector. Kerala, the smallest southern state, experienced the most significant strike activity, while Karnataka had the least.

About 216 longshoremen of Chennai Container Terminal Limited (CCTL) at the Chennai Port went on strike from May 23 to June 6, protesting privatization of the terminal and causing some inconvenience to business. A seven-day truckers' strike called by the All India Motor Transport Congress (AIMTC) was largely unobserved and ended on August 28. Tamil Nadu lawyers went on strike on June 30 to prevent the bifurcation of the Madras and Madurai benches, but ended the action on September 1 without achieving its demand. About 43,000 workers of the Singareni Collieries in Andhra Pradesh struck on November 24, causing a production loss of 47,000-mt of coal.

Home to leftist parties and trade unions, Kerala experienced several general strikes during the past year. Although courts have declared general strikes to be illegal, activists have sometimes paralyzed economic activity by organizing work stoppages under other names.

Regional state governments initiated some significant labor reform measures. In May 2004 in Tamil Nadu and Karnataka and August 2003 in Kerala, State governments implemented provisions allowing women to work in night shifts, particularly in the IT industry. In February 2004 in Andhra Pradesh and June 2004 in Tamil Nadu, new provisions allowed industries to hire contract labor even in core areas for temporary periods to meet market demand.

Although achievement of this goal seems unrealistic, the international community, particularly the ILO, is supporting the efforts of the southern states to end all child labor by 2007, in hopes that this will set an example for other states. As part of their programs to combat child labor, the southern states are increasing education programs for working children, particularly those in the informal sector.

The Tamil Nadu government hopes to eradicate child labor in hazardous employment by 2005 and non-hazardous employment by 2007. It prepared an Action Plan, established a state authority on the eradication of child labor headed by the Chief Secretary, is reviewing proposals submitted by district collectors, and has allotted \$333,332 (Rs. 15 million) to fund them.

Tamil Nadu created an Additional Commissioner position in its Labor Department to head a Child Labor Monitoring Cell. It also organized a Child Labor Monitoring System Workshop in collaboration with the ILO in February 2004, demonstrated a web based monitoring system, and observed Anti Child Labor Day on June 12th. The state is also considering an incentive scheme to encourage village level administrators to establish child labor free areas, and it introduced a state award for the district collector who operates the best

program for the rescue and rehabilitation of child laborers. The Women,s Development Corporation also formed about 1,000 self-help-groups for mothers of child laborers.

Western Region: There were no significant work stoppages by industrial workers during calendar years 2003 and 2004 in Western India (including Mumbai). On May 21, 2003, 69 unions representing workers from aviation, hospitality, banking, textiles, insurance, engineering, and transportation called for a general strike, but only bank employees in Mumbai and port workers at Mumbai and Jawaharlal Nehru Port Trusts honored the strike call. When various trade unions again called for a general strike on February 25, 2004, only bank and public sector insurance workers walked out.

In July 2003, the Government of Maharashtra (GOM) announced a new labor policy for the IT industries which permits 24-hour-a-day operations, the closure of units employing up to 1,000 workers without prior government permission, and self-certified reports of compliance with labor laws.

#### VI.Potential for Expanding Trade and Investment with the US

Tariffs and poor infrastructure present the biggest obstacles to foreign investment and growth, but India,s infrastructure requirements also present trade and investment opportunities for American companies. Although the average level of Indian tariffs has declined significantly since the early 1990s, India,s economy remains on the most protected in the world. India,s average non-agricultural tariff is about 22 percent, compared to the 11 percent median for other emerging markets, according to the World Bank. India controls foreign investment with limits on equity and voting rights, mandatory government approvals, and capital controls. Although the GOI has gradually relaxed some of these constraints, foreign direct investment is still prohibited in some sectors or sub-sectors.

The communist and socialist parties that support the UPA government oppose the privatization of state-owned companies and increasing foreign direct investment, and have blocked or slowed UPA attempts to relax restrictions in these areas. Other factors that inhibit an otherwise &business-friendly8 environment include India,s vast and still largely unreformed bureaucracy and various forms of social tension (some manifested violently) in a huge and extremely diverse population, much of which suffers from extreme poverty and the burdens of underdevelopment.

#### VII. Directory of Labor Organizations

##### A.Government

##### Ministry of Labor and Employment

Shram Shakti Bhawan,  
Rafi Marg, New Delhi - 110 001  
Phone: 91 11 2300 1425  
Fax: 91 11 2371 8730 or 2335 5679  
Minister of Labor: Mr. K. Chandrasekhar Rao

##### Labor Bureau

Shri Balram  
Director General  
Phone: 91 17 7280 3584  
Email: Dglb@hub.nic.in  
<http://labourbureau.nic.in/>

##### Census of India

Office of the Registrar General, India  
2A, Mansingh Road  
New Delhi ) 110 011  
<http://www.censusindia.net/>

##### B.Employers

Council of Indian Employers  
Federation House  
Tansen Marg  
New Delhi ) 110001  
Phone: 91 11 2373 8760-70 or 2331 6121  
Fax: 91 11 2332 0714 or 372 1504  
Email: aioe@ficci.com

All India Organisation of Employers (AIOE)  
Phone: 91 11 2373 8760-70 or 2331 6121  
Fax: 91 11 2332 0714  
Email: bppant@mantraonline.com or secretariat@mantraonline.com  
President: Mr. O.P. Lohia  
Secretary: Mr. B.P. Pant

SIPDIS

Employers, Federation of India (EFI)  
Phone: 91 22 2284 4093 or 2284 4232  
Fax: 91 22 2284 3028  
President: Mr. R. K. Somany  
Email: somany.hindware@gndel.global.net.in  
Secretary-General: Mr. Sharad S. Patil

#### SIPDIS

Standing Conference of Public Enterprises  
Phone: 91 11 2436 2604  
Fax: 91 11 2436 1371  
Email: scope dg@yahoo.co.in  
Chairman: Mr. C.P. Jain

#### C.Trade unions

Bharatiya Mazdoor Sangh (BMS)  
Aligned with the Bharatiya Janata Party (BJP)

Ram Naresh Bhavan, Chuna Mandi, Tilak Marg  
Paharanj, New Delhi ) 110055  
Phone: 91 11 2363 4212  
Fax: 91 11 2362 0654  
President: Mr. Hasubhai Dave  
General Secretary: Mr. Uday Patwardhan

Indian National Trade Union Congress (INTUC)  
Aligned with Indian National Congress Party (Congress)  
Affiliated to International Center of Free Trade Unions (ICFTU)

Shramik Kendra, 4, Bhai Veer Singh Marg  
New Delhi ) 110001  
Phone: 91 11 2374 7768  
Fax: 91 11 2336 4244  
President: Mr. G. Sanjeeva Reddy  
General Secretary: Mr. Rajendra Prasad Singh

Hind Mazdoor Sabha (HMS)  
Aligned with the Janata Dal Party (JD)  
Affiliated to ICFTU

120, Babar Road  
New Delhi ) 110001  
Phone: 91 11 2341 3519  
Fax: 91 11 2341 1037  
President: Mr. Thampan Thomas  
General Secretary: Mr. Umraomal Purohit

Center of Indian Trade Unions (CITU)  
Aligned with the Communist Party of India (Marxist), (CPI-M)

B.T. Ranadive Bhavan  
13 A, Rouse Avenue  
New Delhi ) 110002  
Phone: 91 11 2322 1288  
Fax: 91 11 2322 1284  
President: Dr. M.K. Pandhe

All India Trade Union Congress (AITUC)  
Aligned with the Communist Party of India (CPI)  
Affiliated to the World Federation of Trade Unions (WFTU)

24, Canning Lane  
New Delhi ) 110001  
Phone: 91 11 2338 7320  
Fax: 91 11 2338 6427  
General Secretary: Mr. Gurudas Dasgupta

#### D.NONGOVERNMENTAL ORGANIZATIONS

##### International Labor Organization

Theatre Court, 3rd Floor,  
India Habitat Centre,  
Lodi Road  
New Delhi - 110 003  
Phone: 91 11 2460 2101  
Fax: 91 11 2460 2111  
E-mail: delhi@ilodel.org.in

##### South Asia Research and Development Initiative

CA-1-D, Munirka, Phase-2  
New Delhi 110 067  
Phone: 91 11 2618 0038  
Fax: 91 11 2618 1578  
E-mail: ashutosh@sardi.org  
sardi@del6.vsnl.net.in

#### VIII.Key Sources

Census of India, 2001. <http://www.censusindia.net>

CIA World Factbook.

<http://www.cia.gov/cia/publications/factbook/>

International Confederation of Free Trade Unions.

<http://www.ictfu.org>

International Organization of Employers.

[http://www.ioe-emp.org/ioe\\_emp/worldwide/](http://www.ioe-emp.org/ioe_emp/worldwide/)

page pays html/asia/india.htm

Indian Labour Bureau, Ministry of Labour.

<http://labourbureau.nic.in/>

Indian Ministry of Labour. <http://labour.nic.in/>

National AIDS Control Organization (India).

<http://www.nacoonline.org/index.htm>

U.S. Department of State. Background Notes.

<http://www.state.gov/r/pa/ei/bgn/3454.htm>

U.S. Department of State. Trafficking in Persons Report.

June 2005. <http://www.state.gov/g/tip/rls/tiprpt/2005/>

U.S. Department of State. Country Reports on Human Rights Practices 2004. February 2005.

<http://www.state.gov/g/drl/rls/hrrpt/2004/index.htm>

U.S. Foreign Commercial Service and U.S. Department of State. Doing Business in India: A Country Commercial Guide for U.S. Companies. 2004.

#### IX.KEY LABOR INDICATORS: INDIA 2004

Indicator	2003	2004
Per capita GDP, current prices (US\$)	543	602
Consumer Prices (inflation rate) (%)	4.6	4.2
GDP generated in agriculture (%)	23.6	22.1
--, in manufacturing (%)	28.4	21.7
--, in services (%)	48	56.2
Population, total (millions)	1,073	1091 E
--, by major ethnic groups (%) (2000 est)		
Indo-Aryan	72	72
Dravidian	25	25
Mongoloid and others	3	3
--, in major urban areas (%)	28	28
Population beneath the poverty level (%)	25	25
Birth rate (per thousand population)	25	25
Life expectancy at birth, total (years)	63.92	65.4
--, male	62.92	63.9
--, female	64.37	66.9
Adult literacy rate (%)	59.5	64.8
Labor force, civilian, total (millions)	402.5 (2001)	482.2 (2004 est)
--, male (%)	67	66
--, female (%)	33	34
--, in informal economy (%)	93	91
--, completed primary education	n/a	n/a
Employment, civilian, total (millions)	18.8	18.6
--, in industry (%)	12	11.7
--, in special economic zones	n/a	n/a
--, in agriculture(%)	7.02	7.2
--, in services (%)	80.9	81
--, in government (%)	n/a	n/a
Unemployment rate (%)	9.1	9.2
Underemployment rate (%)	n/a	n/a
Level of unionization of workforce (%)	7	n/a
Labor productivity, manufacturing (% change)	6	7.4
Number of work-related deaths	n/a	n/a
Number of work-related injuries/illnesses	n/a	n/a
Number of days lost from industrial disputes	n/a	n/a
Minimum hourly wage	n/a	n/a
Average hourly earning by major industry	n/a	n/a
Supplementary benefits as % of earnings in manufacturing	n/a	n/a
Average hours worked per week in manufacturing	n/a	n/a
--, in agriculture	n/a	n/a
--, in services	n/a	n/a

n/a = not available  
exchange rate: US\$=46.58 rupees (2003); =45.317 rupees (2004)

End text.

BLAKE